

DISTRICT OF WYOMING



CRIMINAL JUSTICE ACT INFORMATION MANUAL

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CJA INFORMATION MANUAL

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DISTRICT OF WYOMING CJA INFORMATION MANUAL

I. INTRODUCTION

The CJA Information Manual is written to provide information and guidance to CJA attorneys in requesting CJA services and the processing of CJA vouchers. The manual defines procedures the District of Wyoming uses to implement the Guidelines for the Administration of Criminal Justice Act (*Guide to Judiciary Policies and Procedures, Vol VII*) established by the Judicial Conference of the United States. The manual should be read in conjunction with those guidelines.

The *Guide to Judiciary Policies and Procedures, Vol VII, Appointment of Counsel in Criminal Cases*, is available for review to all members of the CJA panel through the United States District Court Clerk's Office.

If there are any questions regarding the topics covered here, please feel free to contact the CJA Clerk. Any comments or suggestions on improving this manual are welcomed.

II. VOUCHERS

A. ORIGINATION OF VOUCHERS

I. CJA FORM 20

APPOINTMENT OF AND AUTHORITY TO PAY COURT APPOINTED COUNSEL

- ◆ Appointments under CJA are submitted to the Clerk's Office monthly by the Federal Public Defender's office. The CJA Clerk originates the CJA Form 20 and forwards it to the presiding judicial officer to confirm the appointment by signing in Block 13.
- ◆ Once returned to the Clerk's Office the voucher is forwarded to the appointed attorney.

- ◆ Interim payments will be allowed only upon motion by counsel and order of the District Court and the Circuit Court. The motion must clearly state the reasons that the interim payments are being requested as well as a proposed schedule for interim payments. When the motion is filed, it must be directed to the CJA Clerk who will originate the order and forward the motion and proposed order to the proper judicial officer.

Interim payments will be considered under the following conditions:

- The anticipated duration of the case is more than 12 months.
- Sentencing is expected to occur more than three months after the trial concludes.
- Extenuating circumstances are anticipated to cause financial hardship for the attorney.

Once an order for interim payments is entered, CJA 20 vouchers are submitted as set forth in the order. Special procedures regarding review of these vouchers are outlined in the Submission and Review section of this manual, Part B. The CJA Clerk will be responsible for issuing all interim vouchers to court-appointed attorneys and maintaining all interim records.

ii. CJA FORM 21

AUTHORIZATION AND VOUCHER FOR EXPERT AND OTHER SERVICES

- ◆ For requests for compensation up to \$300.00, prior approval is recommended. For requests for compensation between \$300.00 and \$1000.00, prior approval from the presiding judicial officer is required. If the request exceeds \$1000.00, prior approval is required from the presiding judicial officer and approval of the final voucher is required by the Chief Judge or designated delegate of the Circuit Court.
- ◆ The court-appointed attorney will contact the CJA Clerk when the need arises to obtain expert or other services using a CJA Form 21. In order for a voucher to be generated, the attorney must file a motion with the court requesting expert services and provide a copy to the CJA Clerk. The CJA Clerk will generate the voucher and send it to the attorney for completion of the relevant sections.
- ◆ Once the attorney has completed the applicable sections of the voucher and returned it to the CJA Clerk, the clerk will forward it to the presiding judicial officer for approval and, upon approval, send it to the party performing the services.
- ◆ Appointment of more than one investigator or same type of expert per defendant is authorized only with prior approval of the presiding judicial officer.

iii. CJA FORM 24

AUTHORIZATION AND VOUCHER FOR PAYMENT OF TRANSCRIPT

- ◆ The court-appointed attorney will contact the CJA Clerk to request a CJA Form 24. The designation of transcripts for the court of appeals is not considered proper notification to the CJA Clerk. The attorney will sign the voucher in Block 15 and complete the transcript information required in Blocks 12, 13, and 14 before returning the voucher to the CJA Clerk.
- ◆ Once the CJA 24 is returned to the CJA Clerk, completion and processing of the voucher will follow the steps outlined in the section regarding CJA Form 24 procedures.

B. SUBMISSION AND REVIEW OF VOUCHERS

I. CJA FORM 20

As set forth in the *Guide to Judiciary Policies and Procedures, Vol VII, Appointment of Counsel in Criminal Cases*, claims for compensation and expenses must be submitted within 45 days of the conclusion of the case at the District Court level. If the 45-day period has passed without submission of the voucher, the court-appointed attorney must explain the reason for the delay to the presiding judge and obtain approval before the voucher will be reviewed by the Clerk's Office.

All vouchers should be submitted to the Clerk's Office, to the attention of the CJA Clerk, for review of technical and mathematical conformity with these guidelines and the *Guidelines for the Administration of Criminal Justice Act, Guide to Judiciary Policies and Procedures, Vol VII, Appointment of Counsel in Criminal Cases*, and 18 U.S.C. §3006A.

TECHNICAL SCREENING

Upon submission to the CJA Clerk, the voucher will be screened for technical accuracy, including attorney's signature, correct rates, and the attorney's, or the firms, mailing address. The CJA Clerk will also assure that the appropriate supporting documentation is attached, including time sheets, receipts, and copies of all relevant motions and orders. If the voucher contains technical errors that cannot be easily corrected by the CJA Clerk, the voucher will be returned to the attorney for correction. Please note that billing statements should be typed rather than handwritten.

MATHEMATICAL SCREENING

All vouchers will be thoroughly audited for mathematical accuracy and compliance with the guidelines set forth here and in the *Guide to Judiciary Policies and Procedures, Vol VII, Appointment of Counsel in Criminal Cases*. Obvious mathematical errors will be corrected by the CJA Clerk. Otherwise, the voucher will be returned to the submitting attorney for correction of the errors.

LOCAL GUIDELINES APPLIED TO MATHEMATICAL SCREENING

- ◆ Compensation will be billed at the allowable rates for in-court and out-of-court services. If a case continues during a period where compensation rates are changed, all work performed, after the rate change becomes effective will be billed at the new rate. If such an event takes place, two CJA 20 vouchers must be completed, one for each allowable rate. The CJA Clerk will coordinate the generation of the second voucher under such circumstances.
- ◆ Court-appointed attorneys may bill the District Court for all time spent on the case up to the filing of any appeal. At that point, all further compensation due to the attorney will be paid by the Tenth Circuit Court of Appeals.
- ◆ **All out-of-pocket expenses for which reimbursement is being requested must be supported by receipts and/or log sheets, regardless of the amount.** The following standards have been instituted regarding the reimbursement of expenses for the District of Wyoming:
 - Long distance phone bills must be supported by copies of the phone bill or an itemized list identifying each call, duration, time, date and cost. If copies of the phone bill are being used, the calls being claimed as an expense must be highlighted, circled, or otherwise distinguished on the copy. All phone bills submitted are considered confidential material maintained by the Clerk's Office. (See section F regarding confidentiality.)
 - Copies made at the attorney's office are reimbursable at a rate of \$.20 per page. The voucher should indicate how many copies were made. Copies of internal logs should be attached if possible.
 - **Credit card/meal reimbursements can only be made from an original vendor receipt.** The credit card slip is not sufficient. If it is not possible to submit the vendor's receipt, a written statement itemizing the items purchased, the price paid and the date may be certified by the attorney and attached to the voucher. Only the attorney's meal can be paid for by the court. Alcoholic beverages are not a reimbursable expense.

If an attorney is required to make a trip that requires an absence from their hometown of more than 10 hours, reimbursement of meals may be possible with proper documentation and receipts. If the duration of the trip is less than 10 hours, the attorney will be reimbursed for mileage only. Meals will not be reimbursed in the attorney's hometown.

- Chapter II, of the *Guidelines for the Administration of Criminal Justice Act, Guide to Judiciary Policies and Procedures, Vol VII, Appointment of Counsel in Criminal Cases* clearly sets forth items considered overhead which are not allowed as a reimbursable expense. Examples include secretarial and courier services, office supplies and basic telephone service. However, if the work is not part of the regular office overhead, but specific to that case, it may be allowable. It must be shown that the circumstances from which the need arose to incur those costs would have resulted in an additional charge to a fee-paying client, above that charged for overhead expenses.
- ◆ Travel time for the attorney may be billed as an out-of-court expense at the appropriate rate. Mileage may be reimbursed at the current rate set by the Administrative Office for the U.S. Courts, however, the voucher must state the number of miles being claimed. All travel expenses must be itemized and supported by receipts from the vendor. Credit card receipts and statements are not sufficient. Although per diem rates are not authorized for attorney use, travel expenses may not exceed the prevailing per diem locality rate.

Airline travel requires prior approval from the Court. The National Travel Service should be used to schedule travel whenever possible and authorization to use this service can be requested from the CJA Clerk and the Clerk's Office once the presiding judge has approved the travel. The attorney is responsible for making travel arrangements once the authorization is issued. The travel authorization allows the attorney to charge the air travel directly to the Court's CJA Government travel account. **If the travel is canceled, the CJA attorney's office is responsible for notifying the travel agent immediately** to avoid billing onto the government travel account. Frequent flier mileage cannot be accrued by the attorney while traveling at government expense.

As a general rule, the use of rental cars is not considered to be an authorized travel expense and is therefore not reimbursable. Prior approval is required from the presiding judge before a rental car is procured.

- ◆ Travel for witnesses and defendants may not be reimbursed on a CJA 20 without a specific order from the court allowing this to occur. As a general rule, all such travel is paid for and completed through the U.S. Marshal's office after an order allowing travel at government expense has been filed.

NON-REIMBURSABLE ITEMS

- ◆ Appointed counsel may not claim reimbursement for general office overhead, filing fees, printing of briefs, service of process fees, taxis, books, hotel movies, nor meals, clothes or items of a personal nature purchased for a defendant. Counsel cannot contract for legal research or appoint co-counsel without prior approval of the presiding judicial officer. Counsel also may not claim expenses incurred by defendants, witnesses, or traveling companions. Any expenses that surpass the maximum allowable rates for expert and other services, or fall outside CJA guidelines, requires prior approval. Such approval should be obtained in writing with a copy attached to the appropriate CJA form at the time it is submitted for review. The request should state the nature of the expense, the estimated cost, and the reason the expense is necessary.

Section 2.28(A), Chapter II, of the *Guide to Judiciary Policies and Procedures, Vol VII, Appointment of Counsel in Criminal Cases*, indicates that a fax is considered part of office overhead and therefore is not a reimbursable expense. Any reimbursement of fax expenses where extenuating circumstances exist must be requested on an individual basis at the time the CJA voucher is submitted. Explanation regarding these circumstances must be attached to the CJA 20 voucher, not filed as a separate motion.

- ◆ Transcripts must be requested and paid using a CJA Form 24. See section E of this manual regarding these procedures. Transcript expenses claimed on a CJA Form 20 as an expense will not be reimbursed.

INTERIM PAYMENTS

- ◆ An order allowing interim payments must be entered before the first payment can be issued. See the section of this manual regarding Origination of Vouchers for details.
- ◆ As required in Chapter II, Part C and Appendix E of the *Guide to Judiciary Policies and Procedures, Vol VII, Appointment of Counsel in Criminal Cases*, one third of all compensation is withheld on each voucher. Expenses are fully reimbursable on each interim payment. Funds that are withheld are added to the final voucher and paid out with the final payment. All calculations of withholdings are made and maintained by the CJA Clerk. The clerk will notify counsel regarding amounts withheld after each interim payment has been processed.

REQUEST FOR EXCESS COMPENSATION

- ◆ If the compensation portion of a CJA voucher exceeds the maximum allowable amount, the attorney must request allowance for excess compensation. This must be done using a CJA Form 26 which can be obtained from the CJA Clerk. This form must be attached to the CJA 20 when it is submitted to the CJA Clerk for review. If the attorney wishes to file a motion requesting excess compensation, this can be done in addition to the required form but **cannot** be substituted for the form. Such motion should be filed at the time the voucher is submitted to the CJA Clerk. The motion and proposed order will be included with the voucher when it is forwarded to the presiding judicial officer for final approval and the order will be signed at that time.

If a motion for excess compensation is filed with the presiding judicial officer at the beginning of the case, it will be forwarded to the CJA Clerk who will maintain it with the CJA records and attach it to the CJA 20 at the conclusion of the proceedings.

In determining if an excess payment is warranted, the presiding judicial officer will make a threshold determination as to whether the case is extended or complex.

If the legal or factual issues in a case are unusual, thus requiring the expenditure of more time, skill and effort by the lawyer than would normally be required in an average case, the case is “complex”.

If more time is reasonably required for total processing than the average case, including pre-trial and post-trial hearings, the case is “extended”.

After establishing that a case is either extended or complex, the presiding judicial officer will determine if excess payment is necessary to provide fair compensation. The following criteria, though not exclusive of others, may be used in this regard:

1. Responsibilities involved measured by the magnitude and importance of the case;
2. Manner in which duties were performed;
3. Knowledge, skill, efficiency, professionalism and judgement required of and used by counsel;
4. Nature of counsel’s practice and injury thereto;
5. Any extraordinary pressure of time or other factors under which services were rendered, and;
6. Any other circumstances relevant and material to a determination of a fair and reasonable fee.

ii. CJA FORM 21

The same procedures for submission and review listed for CJA 20 vouchers will be applied to the CJA Form 21 “Authorization and Voucher for Expert and Other Services” with the following exceptions:

- ◆ In preparing a request or claim, the payee’s name, address, and social security number or federal I.D. number must be included in block 17 to insure proper payment.

- ◆ For requests between \$300 and \$1,000, prior approval is required from the presiding judicial officer. Prior approval is obtained by completing the top half of the CJA 21 form with an itemized estimate of costs.
- ◆ For requests exceeding \$1,000, prior approval is required from the presiding judicial officer and final approval is required from the Circuit Court.
- ◆ On all vouchers submitted for payment, time sheets should be attached showing exact billable hours.
- ◆ On vouchers submitted for payment, an accurate description of claims must be itemized. Submission must be in work units specific to the type of work, for example, travel, phone calls, interviews, etc. Only fees specific to the expertise are reimbursable.
- ◆ All expenses must be supported by receipts, regardless of the amount being requested.
- ◆ Appointment of more than one investigator, paralegal or same type of expert per defendant is authorized only with prior approval of the presiding judge. In multi-defendant cases, court-appointed counsel are encouraged to share the services of experts whenever possible.

All CJA 21 vouchers being submitted should contain the following information:

1. The name of the expert and, if applicable, the firm.
2. The hourly rate being requested.
3. The type of services that will be performed.
4. The maximum amount to be charged.
5. All justification necessary to warrant the services being requested.

C. PROCESSING OF CJA VOUCHERS: A SUMMARY OF STEPS

- ◆ Upon completion of the case, the court-appointed attorney completes all relevant sections and returns the voucher to the CJA Clerk for technical and mathematical review.
- ◆ The CJA Clerk will correct any discrepancies or return the voucher to the attorney for correction. Once this has been completed, the CJA Clerk will submit the voucher to the presiding judicial officer for review and approval.

- ◆ Vouchers submitted for judicial review will contain, and be evaluated with respect to, in-court/out-of-court time, appropriateness of expenditure claims, letters supporting expenditures. The CJA Clerk will flag any questionable expenditures to assist the judge in the review of expenses claimed.
- ◆ If the voucher exceeds the statutory maximums set forth in the Guide, review by the Circuit is required. The judge will return the voucher, with an attached letter to the Chief Judge of the Circuit or designated delegate, to the CJA Clerk who will forward it to the Circuit Court. The Circuit will return the voucher to the CJA Clerk who will submit it for computer entry.
- ◆ Vouchers that do not require Circuit review will be returned to the CJA Clerk for submission for computer entry.
- ◆ Once computer entry is complete, the Administrative Office in Washington, D.C. issues the check.

D. PAYMENT OF CJA FORMS 20 AND 21

- ◆ Once the voucher has been reviewed for technical and mathematical accuracy by the CJA Clerk, it will be submitted to the presiding judicial official for final review and certification. If the voucher requires approval for excess compensation, the CJA Clerk will also submit a summary letter for the judicial officer to sign.
- ◆ If the compensation or claim should be reduced or disallowed by the presiding judicial officer, this will be done through a written order specifying the reason for the reduction or disallowance and giving the claimant twenty (20) days to show cause in writing why such reduction or disallowance should not be made.
- ◆ Following certification at the District Court level, all vouchers requiring approval for excess compensation will be forwarded by the CJA Clerk to the Chief Judge of the Court of Appeals or designated delegate along with the summary letter from the District Judge.
- ◆ When the voucher has been returned with the Circuit Court approval, data entry, verification and certification for approval will be performed by authorized members of the Clerk's Office staff.
- ◆ All payments are disbursed from the Administrative Office in Washington, D.C.

E. CJA 24 FORM PROCEDURES

Submission and tracking procedures outlined above will also be applied to CJA Form 24, "Authorization and Voucher for Payment of Transcript." In addition, the following steps will apply:

- ◆ The court appointed attorney will contact the CJA Clerk to request a CJA Form 24. The attorney will sign the voucher in block 15 and complete the transcript information required in blocks 12, 13, and 14 before returning the voucher to the CJA Clerk.
- ◆ The CJA Clerk will obtain the presiding judge's approval in block 16 and forward the voucher to the court reporter for transcript preparation. Upon completion of the transcripts, the court reporter will return the voucher to the CJA Clerk. The court reporter must complete the financial sections of the voucher in detail or attach an invoice to the voucher.
- ◆ The CJA Clerk will review the voucher for mathematical correctness and confirm the filing of the transcripts with the Clerk's Office. If the transcripts have been filed, the CJA Clerk may sign block #22. In the case of Grand Jury proceedings, where the transcript is not filed with the Clerk's Office, the CJA Clerk will forward the voucher to the attorney to sign in block 22. The attorney will return the voucher to the CJA Clerk.
- ◆ After the voucher has been completed and reviewed by the CJA Clerk, the Clerk will initial the lower right corner of the voucher and forward it to the presiding judicial officer for signature in block 23 and completion of block 24.
- ◆ CJA 24 payments are disbursed by the Administrative Office in Washington, D.C.
- ◆ In multi-defendant cases involving several court appointed attorneys, no more than one transcript may be purchased from the court reporter on behalf of the court appointed attorneys. The CJA Clerk will arrange for the duplication of the transcripts for each of the court appointed attorneys from the original transcript filed with the Clerk's Office once the initial request for production of the transcripts has been completed.
- ◆ Transcripts of Grand Jury proceedings are considered to be under seal and as such are not filed with the Clerk's Office. Since duplication of these transcripts may compromise the security of these documents, the Court will authorize payment for Grand Jury transcripts for each court appointed attorney involved in a case.

- ◆ In the event that the CJA Clerk was not made aware of a transcript ordered directly by the attorney, the attorney may be responsible for any unauthorized transcript expenses incurred. Transcript expenses listed as an expense on the CJA 20 voucher cannot be reimbursed.
- ◆ In individual cases involving requests for expedited transcripts, the Court may grant an exception to the policy set forth above based upon a finding that application of the policy will unreasonably impede the delivery of expedited transcripts to persons proceeding under the CJA. Approval of these requests should be reflected on the CJA 24 voucher in section 14 prior to any transcription work taking place.
- ◆ Real-time transcripts will be paid for using a CJA 24. Such production will comply with the guidelines set forth in the *Report of the Proceedings of the Judicial Conference of the United States*, March 12, 1996. The maximum rate that may be charged for real-time transcripts is equal to one-half that of the daily transcript rate. Copies of real-time transcripts may be billed at a rate equal to the copy rate for daily transcripts. If court appointed counsel has ordered a real-time transcript and subsequently orders a certified transcript of the same proceeding, a credit will be issued towards the purchase of the certified transcript that is equal to the purchase price of the unedited real-time transcript.

F. CONFIDENTIALITY OF VOUCHERS

The *Guide to Judiciary Policies and Procedures, Vol VII, Appointment of Counsel in Criminal Cases* and 18 U.S.C. §3006A set forth that amounts paid under the Criminal Justice Act are a matter of public record. In order to maintain the confidentiality of the material submitted by counsel, the original voucher, and all supporting documentation attached to it, is placed in the Clerk's Office CJA file and is considered under seal and not for public review. An order from the court is necessary to review the supporting documentation on any CJA voucher that has been paid and closed.

III. HOURLY RATES/MAXIMUM ALLOWABLE AMOUNTS

CJA 20:

Hourly rates as of January 1, 2000		New hourly rates as of April 1, 2001	
In Court:	\$70.00	In Court:	\$75.00
Out of Court:	\$50.00	Out of Court:	\$55.00
Travel Time:	\$50.00	Travel Time:	\$55.00

Maximum allowable compensation, without Circuit approval

Felony:	\$5,200.00
Misdemeanor:	\$1,500.00
Other:	\$1,200.00

Mileage is reimbursable at a rate approved by the Administrative Office in Washington, D.C. Please contact the CJA Clerk for the current rate.

CJA 21:

Maximum allowable compensation, without Circuit approval, is \$1,000.00.

It is recognized that there is a vast difference in qualifications, experience, and education of experts. Court appointed counsel is encouraged to secure the lowest rate of the individuals in recognition of the fact that these are indigent cases. The attorney is also encouraged to negotiate the hourly travel rate of experts at a lesser rate and apart from the hourly rate paid for their expertise.

IV. FACT WITNESS VOUCHER

These guidelines pertain to Fact Witness Vouchers, DOJ Form OBD-3, supplied by the U.S. Marshal's office.

All witnesses subpoenaed on behalf of a defendant represented by court appointed counsel will be paid using this form.

The court appointed attorney will obtain a form OBD-3 from the Federal Public Defender's Office or from the Clerk's Office. The top part of the form must be completed regarding case information. The attorney must also complete Part I, Sections A and B as well as Part II, Sections C through F. The witness must certify attendance by signing at Section G.

Once all of the information has been completed, the attorney may present it to the Courtroom Deputy Clerk for the proceedings covered by the voucher. The Courtroom Deputy Clerk will sign in Section H, verifying the attendance of the witness and forward the form to the U.S. Marshal's office for payment.

Payment will be mailed to the witness by the U.S. Marshal's office.

V. **SAMPLE FORMS**

Please note that CJA forms 20, 21, and 24 are not attached, only the instructions. These forms will be generated by the CJA Clerk when necessary.